(2008) 04 JH CK 0062

In the Jharkhand High Court

Surya Mohan Prasad APPELLANT

Vs

Vinoba Bhave University and Others RESPONDENT

Date of Decision : 03-04-2008

Acts Referred:

Jharkhand State Universities Act, 2000 — Section 67

Citation : (2008) 3 JCR 9

Hon'ble Judges : Amareshswar Sahay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Heard learned Counsel for the parties. Prayer of the petitioner in this writ application is to quash the office order, as contained in Memo No. VBU/Esstt/2086/07 dated 4.7.2007, as also Memo VBU/Esstt/FS/248/06(P-II)/564/2007 dated 5.4.2007, issued by the respondents, whereby, the petitioner was made to superannuate with effect from 30.4.2007 on the ground that he has completed 42 years of service.

2. According to the case of the petitioner, the aforesaid orders have been issued in violation of Section 67 of the Jharkhand State Universities Act, 2000, which prescribes 60 years as the age of retirement for non-teaching employees of the University/According to the petitioner, his date of birth is 1.1.1949, which has been entered in his service book and as per the said date of birth, he would retire from service on 31st December, 2008, after completing 60 years of age.

3. Learned counsel for the petitioner has drawn my attention to Annexure-3, a certificate issued by the Finance Officer of the Vinoba Bhave University, Hazaribagh, wherein, the date of birth of the petitioner has been mentioned as 1.1.1949. In view of the said certificate, the claim of the petitioner is that he has wrongly been superannuated by the respondent-University on and from 30th April, 2007, though he is entitled to continue in the services of the University up to 31st December, 2008.

4. A counter affidavit has been filed on behalf of the University, wherein, it is stated that the petitioner was initially appointed by the Ranchi University in the year, 1965 as peon and thereafter he became Routine Clerk in the year, 1975 and after creation of Binoba Bhave University in the year, 1992, his services were transferred to the said Vinoba Bhave University on 7.4.1997 but the service records of the petitioner were not sent to the Vinoba Bhave University by the Ranchi University and, therefore, his service records could not be verified and, accordingly, the petitioner was directed to produce matriculation certificate but the same has not been produced by him and, therefore, the University had no option but to confirm the order of his retirement.

5. There is no denial of the fact in the counter affidavit that Annexure-3 was issued by the Finance Officer of the Vinoba Bhave University itself wherein, it is specifically mentioned that the date of birth of the petitioner is 1.1.1949. The entry in the service book, a copy of which has been annexed as Annexure-1 to this writ petition, has also not been disputed by the respondents in the counter affidavit. The entries made therein also show the date of birth of the petitioner to be 1.1.1949.

6. In this view of the undisputed facts, noticed above, the authorities of the University could not have passed the order for superannuation of the petitioner only on the basis of completion of 42 years of service. Section 67 of the Jharkhand State University Act clearly envisages that non-teaching employees of the University are entitled to continue in service up to the age of 60 years and, therefore, the action of the respondents in retiring the petitioner from service on and from 30th April, 2007 is illegal and unjustified.

7. Accordingly, this writ application is allowed and the impugned orders dated 5.4.2007 as also 4.7.2007, issued by the Registrar, Vinoba Bhave University, Hazaribagh, as contained in Annexures,-2 and 6 respectively, are hereby quashed.

8. The petitioner shall be deemed to have been continuing in the services of the University and he shall retire only after completing the age of 60 years. The petitioner shall also be entitled to all the consequential benefits.